

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

PETER V. SHERRY,

Plaintiff,

v.

Case No: 8:16-cv-510-T-23JSS

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

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REPORT AND RECOMMENDATION

THIS MATTER is before the Court on Plaintiff's Motion to Transfer Venue ("Motion") (Dkt. 5). Plaintiff seeks judicial review of the Commissioner of Social Security's denial of Plaintiff's application for disability benefits.¹ For the reasons that follow, the Court recommends that Plaintiff's Motion be granted and that this action be transferred to United States District Court for the District of Rhode Island.

An individual seeking judicial review of the final decision of the Commissioner of Social Security shall bring the action "in the district court of the United States for the judicial district in which the plaintiff resides, or has his principal place of business, or, if he does not reside or have his principal place of business within any such judicial district, in the United States District Court for the District of Columbia." 42 U.S.C. § 405(g). When an action is brought in the wrong venue, the district court "shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought." 28 U.S.C. § 1406(a).


¹ The Commissioner of Social Security has not yet been served or otherwise appeared in this action.

Plaintiff states that he resides in Woonsocket, Rhode Island. (Dkt. 1 ¶ 2; Dkt. 2 at 1; Dkt. 5 ¶ 2.) As a resident of Rhode Island, Plaintiff should have brought this action in the United States District Court for the District of Rhode Island, and venue is not proper in this Court. *See* 42 U.S.C. § 405(g). Accordingly, after due consideration and for the foregoing reasons, it is

RECOMMENDED:

1. Plaintiff's Motion to Transfer Venue (Dkt. 5) be **GRANTED**.
2. The Clerk be directed to transfer this action to the United States District Court for the District of Rhode Island for all further proceedings and to close the case.
3. Any remaining pending motions shall remain pending so the Clerk may transfer them to the United States District Court for the District of Rhode Island for ruling.

IT IS SO REPORTED in Tampa, Florida, on March 8, 2016.


JULIE S. SNEED
UNITED STATES MAGISTRATE JUDGE

NOTICE TO PARTIES

A party has fourteen days from this date to file written objections to the Report and Recommendation's factual findings and legal conclusions. A party's failure to file written objections waives that party's right to challenge on appeal any unobjected-to factual finding or legal conclusion the district judge adopts from the Report and Recommendation. *See* 11th Cir. R. 3-1.

Copies furnished to:
The Hon. Steven D. Merryday, United States District Judge
Counsel of Record